

# **REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL**

**MAY 17, 2010**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

## **GOOD & WELFARE**

### **Sewer Project**

**Kevin Iskierski of Fountain Street stated residents were led to believe there would be a joint meeting between the Council and the Sewer Commission to discuss various aspects of the sewer project including the grinder pumps and the assessment. He asked that a date and time be set.**

### **Economy/Budget**

**Ernest Alter of 600 Victory Highway expressed concerns over the budget, fearing that the town could face a \$2 million dollar deficit next year that could equate to a ten percent tax increase. He was concerned with teacher raises averaging \$1,600. High taxes, regulations and special interest groups bring everyone down. Mr. Alter feels the town has to extend itself in ways it never has before in order to turn things around.**

### **Dowling Village Construction**

**Roxanne Arruda of 640 Old Louisquisset Pike is troubled by the construction noise coming from Dowling Village. Construction is starting earlier and continuing later than allowed by ordinance. In speaking with a police officer, Ms. Arruda learned that the town did**

not provide any measuring devices to the police department to measure decibels.

## **REGULAR MEETING**

The meeting began at 7:04 P.M. with the prayer and the pledge to the flag. Council members present were Dr. Benoit, Mr. Biron, Mr. Leclerc and Mr. Zwolenski. Mr. Lovett was unable to attend as he was attending the National Honor Society award ceremony for his daughter. Town Administrator Hamilton and Town Solicitor Nadeau were also in attendance.

## **APPROVAL OF MINUTES**

**MOTION** by Mr. Biron and seconded by Mr. Zwolenski to approve the minutes of April 19 and May 3, 2010.

Mr. Zwolenski asked the Clerk to include his comment at the May 3rd meeting that as far as he knew there is no membership list for the Valley Alliance group nor is anyone a card-carrying member.

**MOTION** was amended by Mr. Biron to include Mr. Zwolenski's comments, the second was amended by Mr. Zwolenski, and it was voted 4 to 0 on an aye vote to accept the minutes.

## **PAYMENT OF BILLS**

**MOTION** by Dr. Benoit and seconded by Mr. Biron to approve payment of the following: General Fund - \$140,841.26; Sewer -

**\$6,326.83; Water - \$904.31; Wire Transfer School Department - \$1,010,086.00; and Wire Transfer Fire Department - \$200,146.67 for a total of \$1,358,305.07.**

**Mr. Zwolenski asked the motion be amended to reflect that both the Town Administrator and the Finance Director have reviewed the bills and they have approved them as good to form.**

**Dr. Benoit amended his motion, Mr. Biron amended his second, and it was voted 4 to 0 on an aye vote to approve the bills as presented.**

#### **HOMECREST AVENUE ROAD REPAIRS – K. RASPALLO**

**MOTION by Dr. Benoit, seconded by Mr. Biron, and voted 4 to 0 on an aye vote to move this item up on the agenda.**

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**Mr. Kenneth Raspallo, owner of property located at 925 Victory Highway, has complained that because of poor engineering and design, water runs down Homecrest Avenue and onto his driveway on that side of Mundy's Flower & Gift Shop. He has had conversations with Mrs. Hamilton and Public Works Director Raymond Pendergast dating back to December of 2008 regarding a solution. The town has provided a berm at the edge of the driveway but, according to Mr. Raspallo, this was not the appropriate fix and**

**has created the puddling on and erosion of his driveway.**

**Department of Public Works Foreman Christopher Creighton stated a solution to the problem had been determined to be a berm with an apron that would keep the water flow in the road. He said the town went an extra step and bermed further up Homecrest Avenue where the grade was higher. Mr. Creighton believes the town did what it had to do but all the recent rain falling from Mr. Raspallo's roof and gutters backed up behind the berm onto a driveway that was already fractured. Mr. Creighton thought Mr. Raspallo was going to repave the rest of his driveway.**

**Mrs. Hamilton commented that the Public Works Department has been down several employees and projects have not been able to be completed as promptly but she feels that she will be able to work this out with Mr. Raspallo.**

**Mr. Nadeau stated that this is really an administration issue and not a Council issue. The Council agreed to let Mrs. Hamilton and the department of public works handle it.**

## **EXECUTIVE SESSION**

**MOTION by Dr. Benoit, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to enter into executive session at 7:45 P.M. pursuant to RIGL 42-46-5(A)(5) Any discussions or considerations related to**

the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public to discuss a potential lease and also pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation to discuss the North Smithfield Police Department contract negotiations.

MOTION by Dr. Benoit, seconded by Mr. Biron, and voted 4 to 0 on an aye vote to come out of executive session at 8:22 P.M. and to seal the minutes. No motions were made and no votes were taken.

#### **APPOINTMENT TO PARKS AND RECREATION COMMISSION**

Mrs. Hamilton appointed H. Anthony Deller to the Parks and Recreation Commission to replace Donna Caswell. This is a two-year term that will expire on December 1, 2010.

#### **LIZ DEVELOPMENT**

This matter is still in litigation.

#### **CHERRY BROOK AND STORMWATER MANAGEMENT**

Town Planner Robert Ericson explained that Maguire Group is completing the FEMA application and ninety percent of payment will come from the federal government and ten percent will come from the town. The same will hold for the competitive 404 grant where the town will submit its recommendation for using the newly acquired 69 acres, partly as a detention pond.

## **RESOLUTION RE WAIVER OF RECORDING FEES FOR SPECIAL LOANS FOR FLOOD VICTIMS**

**Town Clerk Debra Todd explained that clerks throughout the state had been discussing the possibility of waiving recording fees of loan documents for those residents affected by flood damage and she was looking for Council approval of a resolution.**

**MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted 4 to 0 on an aye vote to adopt the following resolution: “WHEREAS, the State of Rhode Island experienced the worst flooding in several hundred years during the month of March, 2010; and WHEREAS, there are residents within the Town of North Smithfield that are victims of the flood waters by either being displaced, having damaged homes or losing their**

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**property; and WHEREAS, low interest loans have been made available to these flood victims in declared areas through the US Small Business Administration for the purpose of repairing, rebuilding or replacing property lost or damaged due to this declared disaster (the “SBA Loans”); and WHEREAS, the US Small Business Administration is asking that the Town of North Smithfield waive the recording fees for the SBA Loans; and WHEREAS, the Town Clerk is recommending that the Town Council approve this Resolution as many of her sister clerks are also working on having the fees waived**

for the SBA Loans in their respective towns. NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of North Smithfield is desirous in assisting the flood victims of our town by waiving the recording fees for the SBA Loans, and BE IT FURTHER RESOLVED by the Town Council that the Town Clerk shall be and hereby is (a) authorized to waive the recording fees for the SBA Loans upon request by any North Smithfield taxpayer in receipt of an SBA loan, and (b) directed to maintain a listing of each SBA Loan so recorded and the recording fees waived for each such SBA Loan in order that the Town of North Smithfield may seek reimbursement for all such waived recording fees from the Federal Emergency Management Agency.”

#### **CONSERVATION COMMISSION MINUTES**

**MOTION** by Mr. Biron, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote to place on file the minutes of March 9, 2010.

#### **INDUSTRIAL DEVELOPMENT COMMISSION**

**MOTION** by Mr. Biron, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote to place on file the minutes of April 26, 2010.

#### **SEWER COMMISSION MINUTES**

**MOTION** by Mr. Biron, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote to place on file the minutes of February 17 and March 17, 2010.

**TRANSFER OF BVL LIQUOR LICENSE – ORI, INC. D/B/A HERCULES PIZZA RESTAURANT**

**MOTION by Mr. Zwolenski, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote to continue this to June 7, 2010 since the applicant has still not received its Certificate of Good Standing.**

**OUTDOOR DINING/ALCOHOLIC BEVERAGES – H & C FOODSERVICE LLC D/B/A BOB & TIMMY’S WOOD GRILLED PIZZA JR.**

**MOTION by Mr. Biron, seconded by Mr. Leclerc, and voted 3 to 0 on an aye vote (Mr. Zwolenski recused himself because his daughter works at the restaurant) to grant permission to serve food and alcoholic beverages outside the restaurant from May 1st through Columbus Day weekend.**

**CLAIM FOR VEHICLE DAMAGE – P. FONTAINE**

**Mr. Paul Fontaine of 18 Trout Brook Lane submitted a claim for damage caused to his vehicle by a pothole located on Pound Hill Road. The tire immediately blew after hitting the large hole which also caused significant damage to the front end suspension. Mr. Fontaine’s claim amounted to \$356.85.**

**MOTION by Mr. Biron and seconded by Mr. Zwolenski for discussion to deny this claim as he does not feel the town should be responsible for tire damage due to potholes.**

**Mr. Zwolenski asked if the town is responsible for this damage.**



**Mr. Nadeau responded that, according to the current ordinance, the town makes itself responsible up to \$300.00. He feels the ordinance should be repealed.**

**Roll call vote: Dr. Benoit – no; Mr. Biron – yes; Mr. Zwolenski – no; Mr. Leclerc – no. The motion failed 3 to 1.**

**MOTION by Dr. Benoit, seconded by Mr. Zwolenski, and voted 3 to 1 on a roll call vote (Mr. Biron voted no) to pay \$300.00 towards this claim**

**based on the current ordinance and this amount would take into consideration the mileage of the tire.**

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## **2ND READING ORDINANCE AMENDMENT RE: REDEVELOPMENT AGENCY**

**MOTION by Dr. Benoit, seconded by Mr. Biron, and voted 4 to 0 on a roll call vote to adopt this ordinance in its entirety, Section 17.1 through Section 17.23.**

## **ORDINANCE REVIEW COMMITTEE RESOLUTION**

**Mr. Leclerc brought this forward tonight to get a better understanding of the committee's charge and who will be guiding them.**

**After thoroughly reading through the resolution, it was clear to Mr. Ericson that this group was intended to be entirely self-sufficient and that the positions of secretary and clerk/secretary are to be held by members within the body. It should not be done by the Planning Department.**

**Mr. Ericson continued that the Ordinance Review Committee is advisory to the Planner who works on behalf of the Planning Board. Any ordinances recommended by the ORC to the Planner and the Planning Board may be forwarded to the Council but, in any case, are non-binding.**

**Mr. Ericson suggested that the Council let the committee know of any ordinances that it wants addressed. He is available to answer any questions either via the telephone or by attending a meeting.**

**Mr. Vincent Marcantonio asked if someone from the town could notify all the members as to their appointment along with a date, time and place for a meeting. He also said that the committee needed the cooperation from the Planner and the town that it had received in the past.**

## **BUDGETS FOR FISCAL YEARS 2010 AND 2011**

**Mrs. Hamilton noted she has no further information on the fourth quarter excise taxes but she is not anticipating getting anything. The state has approved legislation to allow cities and towns to push**

forward the closing of their fiscal year 2010 by ninety days. There may be enabling legislation enacted that will provide an option of relieving the town of the \$6,000 exemption.

## **APPOINTMENTS TO HISTORIC DISTRICT COMMISSION**

There were none.

## **RESOLUTION RE: ENERGY SAVINGS CAPITAL IMPROVEMENT PROJECT LEASE REVENUE BOND**

After a question from Mr. Biron, Mr. Nadeau explained that the improvements have to be paid up front. The bond will be repaid from the savings and if the savings are not realized, then Johnson Controls will guarantee to pay the difference to the town.

School Committeeman Paul Vadenais added that there will be thirty-five percent reimbursement from the state.

There was confusion as to whether this bond had to go before the voters and Mr. Nadeau recommended inserting additional language to the resolution.

Mr. Nadeau was unsure about shifting spending from the School Department budget to a bond and what that does to the maintenance of effort responsibilities of the town.

**MOTION** by Mr. Biron, seconded by Dr. Benoit, and voted 4 to 0 on a

roll call vote to adopt the following resolution as amended:  
“WHEREAS, the North Smithfield School Department and the Town of North Smithfield desire to finance the construction and equipping of an energy savings capital improvement project in the town; WHEREAS, in order to complete the above financing, the Town of North Smithfield desires to issue a lease revenue bond in an amount not to exceed \$3,620,000, the large majority of which will be used to finance the construction and equipping of the Energy Savings Capital Improvement Project for the facilities managed by the North Smithfield School Department (the “School Financing”); NOW, THEREFORE, BE IT RESOLVED: That the North Smithfield School Department and the Town of North Smithfield hereby request that the General Assembly enact legislation

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authorizing the Town of North Smithfield, and if required by RI law, with the prior approval of the qualified electors of the Town of North Smithfield, to issue a lease revenue bond in an amount not to exceed \$3,620,000 in order to complete the School Financing.”

#### **HYDROELECTRIC PROJECT ON SLATERSVILLE RESERVOIR**

Mr. Leclerc had concerns about the draw down of water at the reservoir as well as the amount of noise generated by the project.

Abutters to the project, William Juhr and John Gibbons, were present and had several questions including noise levels and the impact to

abutters, if there will be any public participation in the pre-application process, will there be an odor from stagnant water, how will fish and wildlife be affected and will there be a determination of water rights.

Mr. Michael DeFrancesco, Engineer for the Dudley Development Corporation was in attendance and explained that the Federal Energy Regulatory Commission (FERC) controls the waterways of the United States in regards to energy development. In January 2010 the Commission issued a notice that this project was ready for an environmental assessment. There was a sixty-day comment period that ended March 16th. Subsequent to March 16th, the applicant had forty-five days to respond to comments. It is Mr. DeFrancesco's understanding that a requirement is that DEM has to issue wetland and water quality permits in conjunction with the license and that is what prompted the notice that went out.

Dr. Benoit reviewed the engineering plans that were given to the Clerk's office and noted that fish ladders are part of the design. The Department of Environmental Management is demanding removal of a center granite block from the spillway.

Mr. DeFrancesco responded to questions that were posed and noted there have been numerous meetings, discussions and negotiations with the regulatory agencies.

**MOTION** by Dr. Benoit, seconded by Mr. Biron, and voted 4 to 0 on an

**aye vote at 10:32 P.M. to extend the meeting to 11:00 P.M.**

**Mr. Jühr was concerned that the hydroelectric plant could impact Landfill Resource & Recovery. When he called DEM to see if there was going to be an underground or above ground impact study in regards to LR & R, he was told there was not. He thought that might be a concern to the town.**

**Mr. Jühr believed that not sending any type of letter to DEM implies the town's approval of the project.**

**Dr. Benoit asked for Mr. Ericson's opinion as to whether or not the town should weigh in with an opinion.**

**Mr. Ericson stated that one option is to vote to disapprove of the project but there would need to be a really good reason. The town could, however, send a letter asking DEM to be thorough in its review process.**

**Mr. Ericson continued that he learned this afternoon that this was going to become a de facto public hearing. It's one thing to have a review and comment session. But it's another thing to have people attending with questions that the applicant has no ability to respond to because he didn't even know about a meeting. Mr. Ericson cautioned that everyone should be notified in the future.**

**MOTION by Mr. Zwolenski, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote at 11:00 P.M. to extend the meeting to 11:05 P.M.**

**MOTION by Mr. Biron, seconded by Dr. Benoit, and voted 4 to 0 on an aye vote to place on file the following items under Communications:**

**A.) Animal Control Monthly Report for April 2010; B.) NSF&RS Inc. Monthly Incident Report for April 2010; C.) Resolution in Support of H7014, Bridge Safety from the Town of Jamestown; D.) Resolutions Encouraging the Return of the America's Cup Challenge to Newport from**

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**the Towns of Jamestown and Middletown and the City of Warwick; E.) Resolutions Opposing Binding Arbitration Legislation from the Towns of Middletown and West Warwick and the Newport and Bristol Warren Regional School Committees; F.) Resolutions Opposing School Teacher Contract Continuation from the Town of Middletown and West Warwick and the Newport and Bristol Warren Regional School Committees; G.) Resolution Re: Bicyclist Safety from the Town of Jamestown; H.) Resolution on Local Spending from the Town of Portsmouth; I.) Resolution Proclaiming May Mental Health Month from the Town of Warren; J.) Resolution Opposing the Hess Liquified Natural Gas Plant from the City of Cranston; K.) Resolution in Support of Mandate Relief Program Act from the Town of West Warwick; and L.) Resolution Re: Waiver of Recording Fees for Special Loans for Flood Victims from the Town of Charlestown.**

**MOTION by Mr. Zwolenski, seconded by Dr. Benoit, and voted 4 to 0  
on an aye vote to adjourn at 11:01 P.M.**

**Respectfully submitted,**

**Debra A. Todd, Town Clerk**